

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

In the Matter of the Petition of Dalia Genger, as  
Trustee of the Orly Genger 1993 Trust, Created by  
Trust Agreement Dated December 13, 1993 between  
ARIE GENDER, as Grantor, and LAWRENCE M.  
SMALL and SASH A. SPENCER, as Trustees, to  
Turnover Property to the Orly Genger 1993 Trust.

File No.: 2008-0017/E

Surrogate Nora S. Anderson

Dalia Genger, Trustee of the Orly Genger 1993 Trust,  
Petitioner,

-against-

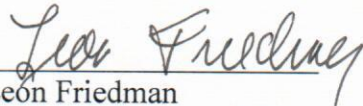
Orly Genger, et al.,  
Respondents.

**NOTICE OF MOTION TO DISMISS BY RESPONDENT ARIE GENDER**

PLEASE TAKE NOTICE that upon the attached affirmation of Leon Friedman, dated February 4, 2018, the undersigned will move this Court, pursuant to SCPA Section 102 and CPLR Sections 3211 (a)(4), (5), (7) and (8) in the Surrogate Court Motion Part, courtroom of Judge Nora Anderson, in the Courthouse located at 31 Chambers Street. New York, N.Y. 10007 on February 27, 2017, at 9:30 A.M. or as soon thereafter as counsel may be heard, for an order dismissing the pending petition brought by Petitioner Dalia Genger and for such other relief as the court deems just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to CPLR 2214(b) answering papers, if any shall be served at least seven two days prior to the return date of this motion.

Dated: New York, N.Y.  
February 5, 2018

  
Leon Friedman  
685 Third Avenue. 25<sup>th</sup> floor  
New York, N.Y. 10017  
(646) 825-4398  
Attorney for Respondent Arie Genger

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Surrogate Nora S. Anderson

Dalia Genger, Trustee of the Orly Genger 1993 Trust,

Petitioner,

-against-

Orly Genger, et al.,

Respondents.

**AFFIRMATION OF LEON FRIEDMAN IN SUPPORT OF MOTION TO DISMISS  
BY RESPONDENT ARIE GENDER**

LEON FRIEDMAN, an attorney duly admitted to practice in the courts of the state of  
New York, affirms the following under penalties of perjury:

1. I am the attorney for respondent Arie Genger. I make this affirmation in support  
of a motion to dismiss the pending petition (the "New Action") brought by Petitioner Dalia  
Genger.

2. Arie Genger is in precisely the same position in this matter as Respondent Orly  
Genger who has submitted a parallel motion to dismiss. As noted in the parallel papers, in  
December, 2017, Dalia attempted to serve various parties with documents relating to a  
purportedly new action. The only papers actually served on Arie Genger at this time was a two  
page document entitled "Miscellaneous Citation." (Attached as Exhibit A.) That document was  
sent to a former address of Arie Genger, namely 17001 Collins Avenue, Sunny Island Beach

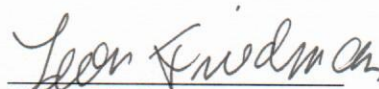
Florida. (See Exhibit B). . It was then forwarded to the new address, 19111 Collins Avenue, as regular mail, and received on January 12, 2018. No petition actually accompanied the two page document.

3. In every other respect, Arie Genger is in precisely the same position as his daughter Orly Genger.as described in her moving papers. Arie Genger hereby incorporates and adopts all of the arguments made by Orly Genger in her filing before this Court in this matter in support of a motion to dismiss..

4. For the reasons stated above, Respondent Arie Genger moves that the pending New Action be dismissed.

Affirmed under penalties of perjury.

Dated: New York, N.Y.  
February 4, 2018



Leon Friedman  
685 Third Ave, 25<sup>th</sup> floor  
New York, N.Y. 10017  
(646) 825-4398  
Attorney for Respondent Arie Genger



## **EXHIBIT A**

Miscellaneous Citation

File No. 2008-0017 / E

SURROGATE'S COURT NEW YORK COUNTY

*Citation*

THE PEOPLE OF THE STATE OF NEW YORK

TO:  
ORLY GINGER,  
ARIE GINGER,  
GLENDOVA INVESTMENT COMPANY,  
TR INVESTORS, LLC,  
NEW TR EQUITY I, LLC,  
NEW TR EQUITY II, LLC,  
TRANS-RESOURCES, INC.,  
ARNOLD BROSER,  
DAVID BROSER,  
SAGI GINGER 1993 TRUST

A petition having been filed by Dalia Genger, who is domiciled at 200 E. 65<sup>th</sup> Street, in the City of New York, County of New York and State of New York.

YOU ARE HEREBY CITED TO SHOW CAUSE before the Surrogate's Court, New York County, at 31 Chamber Street, Room 509, New York, New York on

February 6, 2018 at 10 o'clock in the forenoon of that day, why a decree should not be made ~~in the matter of the Application of Dalia Genger, as trustee of the Orly Genger 1993 Trust, as Grantor and Lawrence M. Small and Seth A. Spencer, as Trustees,~~ Concerning the Orly Genger 1993 Trust created by Trust Agreement, dated December 13, 1993 between Arie Genger, granting the following relief as requested in the petition:

- a. damages in in the amount of \$32.3 million, plus statutory interest;
- b. imposition of a constructive trust on the Settlement Proceeds;
- c. an order directing the delivery of the Settlement Proceeds to her as Trustee;
- d. an accounting of the Settlement Proceeds; and

e. such other relief as to the Court seems just and necessary.

Dated, Attested and Sealed,

December 21, 2017

Hon. Nora S. Anderson, Surrogate

Diana Sanabria Chief Clerk

JUDITH BACHMAN, ESQ  
254 S. Main Street, Suite 306  
New City, New York 10956  
(845) 639-3210  
jlbesq\_99@yahoo.com  
*Attorneys for Petitioner Dalia Genger*

[Note: This citation is served upon you as required by law. You are not required to appear. If you fail to appear it will be assumed you do not object to the relief requested. You have a right to have an attorney appear for you.]

**PROOF OF SERVICE MUST BE FILED  
TWO DAYS PRIOR TO THE RETURN DATE**  
Court Rule 207.7 (c)

## **EXHIBIT B**

JUDITH LISA BACHMAN, ESQ.  
254 SOUTH MAIN STREET, STE. 406  
NEW CITY, NY 10956

NEW YORK  
NY 100  
27 DEC '19  
PM 13:1

USPS®  
FIRST CLASS PERMIT NO. 4927  
NEW YORK, NY 10001

ARIE GINGER  
17001 COLLINS AVENUE  
SUNNY IS

NOTIFY SENDER OF NEW ADDRESS  
331 N 18C0001/06/18  
GINGER, ARIE  
19111 COLLINS AVE APT 706  
SUNNY ISL BCH FL 33160-2379

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PERSONAL AND CONFIDENTIAL

OK



CERTIFICATE OF SERVICE

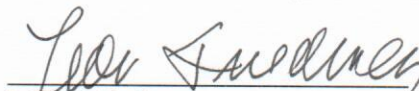
I hereby certify that I am not a party to this action, am over 18 years of age and reside at 148 East 78th Street, New York, N.Y and that I am an attorney duly admitted to the Courts of the State of New York.

On February 5, 2018 I served a copy of the annexed Notice of Motion to Dismiss with accompanying affirmation of Leon Friedman in the following manner:

by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

Judith Bachman  
254 S. Main Street, Suite 406  
New City, N.Y. 10956

Dated: February 5, 2018

  
Leon Friedman